

REMARKS

The Claim Amendments

After entry of the May 12, 2008 Response to the February 13, 2008 Office Action, Claim 19, claims 20 and 36 that depend from claim 19, and claims 41-42 are pending in this application. Claims 21-35 and 37-40 are withdrawn.

Applicants have amended claim 19 to replace the recitation of R₂, R₃, R₄, R₈, R₉ and R₁₀ as Z-[(C₁-C₄)-straight or branched alkyl] with T-[(C₁-C₄)-straight or branched alkyl]. T is not defined as oxygen and thus excludes alkoxy substituents from its definition. These amendments required rewriting and reorganizing the paragraphs of the claims that were divided to R₁, R₂, R₄, R₅, R₇, R₈, R₁₀ and R₁₁ and to R₃ and R₉.

Applicants have also amended claim 41 to recite R₂, R₄, R₈ and R₁₀ as specific moieties; to remove the recitation of R₃ and R₉ as O-(C₁-C₄)-straight or branched alkyl and the recitation of R₃ as OCF₃; and to remove the recitation of R₁, R₂, R₄ and R₅ or R₇, R₈, R₁₀, and R₁₁ as a 5 to 6-membered aromatic carbocyclic or heterocyclic ring. Support for these amendments can be found, for example, on p. 14, line 8 to p. 15, line 7 of the original specification.

Applicants have added Claims 43-44. New claim 43 corresponds to previously presented claim 19 and excludes the definition of R₆ as hydrogen. Support for new claims 43-44 can be found throughout the original specification.

None of these amendments or new claims adds new matter.

Rejections

35 U.S.C. §103(a) – Obviousness

Claims 19-20, 36 and 41-42 stand rejected under 35 U.S.C. §103(a) as allegedly obvious over Amschler et al., U.S. Patent 5,712,298 ("the '298 patent"). Specifically, the Examiner has maintained the obviousness rejection issued in the February 13, 2008 Final Office Action asserting that the compositions of the pending claims are obvious regardless of the method of use in as much as the compounds of these compositions are structurally similar to those of the '298 patent. Applicants traverse this rejection to the extent that it is maintained over the claims, as amended.

The '298 patent does not teach or suggest the subject matter of amended claims 19 and 41 (upon which claims 20, 36 and 42 depend). Amended claims 19 and 41 recite compositions comprising substituted di-phenyl compounds. The phenyl groups of the compounds included in the claim 19 compositions are substituted at the R₂, R₃, R₄, R₈, R₉ and R₁₀ positions by various moieties, including hydroxy, halo, cyano, alkyl, alkenyl, alkynyl and aryl. The '298 patent does not teach or suggest any of the compounds included in the claim 19 compositions. In fact, while the '298 patent refers to a genus of compounds, it only provides compounds wherein *at least one* of its R₁ and R₂ (corresponding to the R₂, R₃, R₄, R₈, R₉ and R₁₀ positions in amended claim 19) is C₁₋₄ alkoxy *which is completely or partially substituted by fluorine*. See col. 1, lines 39-44, the '298 patent. As discussed above, applicants have amended claim 19 to replace the recitation of R₂, R₃, R₄, R₈, R₉ and R₁₀ as Z-[(C₁-C₄)-straight or branched alkyl] with T-[(C₁-C₄)-straight or branched alkyl]. Because T

cannot be defined as oxygen, the claim 19 compositions do not include compounds substituted at any of the R₂, R₃, R₄, R₈, R₉ or R₁₀ positions by an alkoxy moiety, let alone a C₁₋₄ alkoxy moiety that is completely or partially substituted by fluorine. Also, the '298 patent does not provide examples that would suggest the compounds within the claim 19 compositions. Finally, nothing in the '298 patent would suggest to the skilled artisan to select compounds within applicant's compositions from its genus.

The phenyl groups of the compounds included in the claim 41 compositions recite specific substituents for R₂, R₃, R₄, R₈, R₉ and R₁₀. As discussed above, the '298 patent only refers to compounds wherein at least one of R₁ and R₂ (corresponding to R₂, R₃, R₄, R₈, R₉ and R₁₀) is C₁₋₄ alkoxy which is completely or partially substituted by fluorine and the other of R₁ and R₂ is hydrogen, C₁₋₆ alkoxy, C₃₋₇ cycloalkoxy, C₃₋₇ cycloalkylmethoxy or C₁₋₄ alkoxy completely or partially substituted by fluorine. Amended claim 41 recites specific moieties for R₂, R₃, R₄, R₈, R₉ or R₁₀, which do not include a C₁₋₄ alkoxy group, let alone a fluorinated C₁₋₄ alkoxy group. Thus, the genus of compounds referred to in the '298 patent does not overlap with any of the compounds recited in the claim 41 compositions. The '298 patent, therefore, does not suggest the compositions of amended claim 41. Moreover, nothing in the '298 patent would have motivated one of ordinary skill in the art to select the compounds in applicant's compositions from the '298 patent's genus.

The '298 patent also does not teach or suggest the compounds included in the compositions of new claim 43 (upon which new claim 44 depends). The compounds of the claim 43 compositions recite specific substituents for R₆, when X is -C(O)-N(R₆)- or -N(R₆)-

C(O)-. The '298 patent does not teach or suggest any of the compounds included in the claim 43 compositions. In fact, while the '298 patent refers to a genus of compounds, it only provides compounds wherein it's phenyl/aryl rings are linked by $-C(O)-N(\underline{H})-$. See Fig. 1, the '298 patent. As discussed above, new claim 43 does not recite R_6 as hydrogen. Because R_6 cannot be defined as hydrogen, the claim 43 compositions do not include compounds of the '298 patent. Also, the '298 patent does not provide examples that would suggest the compounds within the claim 43 compositions. Finally, nothing in the '298 patent would suggest to the skilled artisan to select compounds within applicant's claim 43 compositions from its genus.

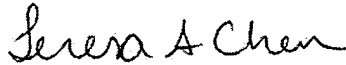
In light of the above remarks and amendments, applicants respectfully request that the Examiner reconsider and withdraw the obviousness rejection.

Appln. No. 10/671,967
Response dated December 12, 2008
Response to Advisory Action of June 3, 2008

CONCLUSION

Applicants request that the Examiner consider the above remarks, withdraw the outstanding rejections, and allow the amended claims to issue.

Respectfully submitted,



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